

COMPLETE TITLE OF CASE:

## Appellants

## Respondents

DATE: JUNE 28, 2016

Circuit Court of Cole County, MO  
The Honorable Jon Edward Beetem, Judge

Division Three  
Mark D. Pfeiffer, P.J., James E. Welsh, Anthony Rex Gabbert, JJ.

Christopher Neville Grant, George Owen Suggs, St. Louis, MO, Counsel for Appellants

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**PROGRESS MISSOURI, INC. ET AL.,**

**Appellants,**

**v.**

**MISSOURI SENATE ET AL.,**

**Respondents.**

WD79459

Cole County

Before Division Three Judges: Mark D. Pfeiffer, P.J., James E. Welsh, Anthony Rex Gabbert, JJ.

Progress Missouri, Inc. et al. (“Progress”) appeals the circuit court’s grant of Missouri Senate et al.’s (“the Senate”) motion to dismiss Progress’s Petition alleging the Senate’s violation of Section 610.020, RSMo 2000, Missouri’s Sunshine Law, and seeking a declaration that the Senate had violated Progress’s freedom of speech and association, with an injunction barring the Senate from prohibiting Progress and others from recording hearings before Senate committees. Progress contends that the circuit court erred: (1) in granting the Senate’s motion to dismiss Count I of Progress’s petition because Progress’s statutory claims do not invoke political questions immune from judicial review; and (2) in granting the Senate’s motion to dismiss Count II of Progress’s petition because the petition states a claim for violation of freedom of speech and association in that the Senate has granted the right to record open meetings to others and has denied Progress that right in an unconstitutional manner.

**AFFIRMED**

**Division Three holds:**

- (1) The circuit court did not err in granting the Senate’s motion to dismiss Count I of Progress’s petition. Insofar as Senate Rule 96 might be considered a guideline under Section 610.020.3 that effectuates Section 610.020.3, Progress’s petition fails to state a claim with regard to how this rule and the Senate’s implementation of this rule is not in compliance with Missouri’s Sunshine Law. Insofar as Senate Rule 96 is an internal rule governing its own proceedings, Progress’s challenge to this rule presents a nonjusticiable political question.
- (2) The circuit court did not err in granting the Senate’s motion to dismiss Count II of Progress’s petition as it failed to state a constitutional claim.

**Opinion by: Anthony Rex Gabbert, Judge**

Date: 6/28/16

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